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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

Number 837

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MILTON L. LEIBY, et al.,

Petitioners

v.

CITY OF MANCHESTER, et al.,

Respondents

◆

Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the First Circuit

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INDEX

PAGE

Argument opposing jurisdiction .....

TABLE OF CASES

Cantwell v. Connecticut
310 U. S. 296, 306 3

Coleman v. Griffin
55 Ga. App. 123
189 SE 427 4

Giragi v. Moore
48 Ariz. 33, 114 ALR 315 3

The Associated Press v. National Labor Relations
301 U. S. 103, 139 3

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Petition for Writ of Certiorari

Opposition Brief

The Petitioners have grouped the important arguments in support of the request for the Writ of Certiorari under two headings which are in substance, (1) that the ordinance infringes on freedom of the press and (2) that the ordinance as applied to them amounts to a deprivation of religious liberty.

One

The requirement of a badge for identification purposes is a reasonable exercise of the police power vested in a municipality for the protection of the public.

"Without doubt a state may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity . . . " *Cantwell* v. *Conn.*, 310 U. S. 296, 306.

The requirement is not necessarily in the nature of a permit to distribute literature but is a method whereby the public is granted an opportunity to identify any person from whom articles are purchased on the streets.

Merely because the petitioners are engaged in press activities grants them no special immunity from the application of the general laws. *The Associated Press* v. *National Labor Relations*, 301 U. S. 103, 132.

The issuing officer has no grant of arbitrary power to refuse a badge. In this respect the case is similar to *Giragi* v. *Moore*, 48 Arizona, 33, 114 ALR 315. There, a statute providing that every person engaging in a business shall apply for and obtain a license from the Tax Commissioner, pay $1.00 therefor and display it in his place of business, was held constitutional as applied to a newspaper business. This, because no condition except payment of the license fee was attached, and any person who paid the fee was entitled to the license. There was no prior restraint to the exercise of constitutional privileges.

The appeal to this Court was dismissed for want of a substantial Federal question 301 U. S. 670.

The opinion of the Circuit Court of Appeals is perfectly consonant with the decisions of this Court and no substantial Federal question is involved.

TWO

The claim of the Petitioners that the ordinance in issue deprives them of any religious liberties guaranteed by the Constitution presents no substantial Federal question.

An ordinance far more comprehensive as applied to Jehovah Witnesses was held not to constitute a restraint on the free exercise of religion in *Coleman* v. *Griffin,* 55 Ga. App. 123, 189 SE 427, and the appeal to this Court was dismissed for want of a substantial Federal question, 302 U. S. 636.

Since the ordinance is a valid exercise of the constitutional power of the City it is unnecessary to discuss the propriety of remedy by injunction.

It is submitted that the petition should be denied.

Respectfully

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WILLIAM H. CRAIG,
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